20593–0001 (for district offices, consult your phone book).

9. Former components of the Department of Treasury:

The Federal Law Enforcement Training Center does not maintain a conventional public reading room. Records that are required to be in the public reading room are available electronically at *http://www.fletc.gov/irm/foia/readingroom.htm*

U.S. Customs Service, 1300 Pennsylvania Avenue, NW., Washington, DC 20229 (for a list of field office public reading rooms please consult 19 CFR 103.1).

U.S. Secret Service, Main Treasury, 1500 Pennsylvania Avenue, NW., Washington, DC 20220

10. Federal Emergency Management Agency:

Federal Emergency Management Agency, Federal Center Plaza, 500 C Street, SW., Room 840 Washington, DC 20472 (for regional offices, consult your phone book)

11. Former components of the General Services Administration:

For the Federal Computer Incident Response Center and the Federal Protective Service: Central Office, GSA Headquarters, 1800 F Street, NW., (CAI), Washington, DC 20405 (for regional offices, consult your phone book).

APPENDIX C TO PART 5—DHS SYSTEMS OF RECORDS EXEMPT FROM THE PRIVACY ACT

This appendix implements provisions of the Privacy Act of 1974 that permit the Department of Homeland Security (DHS) to exempt its systems of records from provisions of the Act. During the course of normal agency operations, exempt materials from other systems of records may become part of the records in these and other DHS systems. To the extent that copies of records from other exempt systems of records are entered into any DHS system, DHS hereby claims the same exemptions for those records that are claimed for the original primary systems of records from which they originated and claims any additional exemptions in accordance with this rule.

Portions of the following DHS systems of records are exempt from certain provisions of the Privacy Act pursuant to 5 U.S.C. 552(j) and (k):

1. DHS/ALL 001, Department of Homeland Security (DHS) Freedom of Information Act (FOIA) and Privacy Act (PA) Record System allows the DHS and its components to maintain and retrieve FOIA and Privacy Act files by personal identifiers associated with the persons submitting requests for information under each statute. Pursuant to exemptions (j)(2), (k)(1), (k)(2) and (k)(5) of the Privacy Act, portions of this system are exempt from 5 U.S.C. 552a(c)(3); (d); (e)(1); (e)(4)(G), (H) and (I) and (f). Exemptions from the particular subsections are justified, on a case by case basis to be determined at the time a request is made, for the following reasons:

(a) From subsection (c)(3) (Accounting for Disclosures) because release of the accounting of disclosures could alert the subject of an investigation of an actual or potential criminal, civil, or regulatory violation to the existence of the investigation and reveal investigative interest on the part of DHS as well as the recipient agency. Disclosure of the accounting would therefore present a serious impediment to law enforcement efforts and/or efforts to preserve national security. Disclosure of the accounting would also permit the individual who is the subject of a record to impede the investigation and avoid detection or apprehension, which undermines the entire system.

(b) From subsection (d) (Access to Records) because access to the records contained in this system of records could inform the subject of an investigation of an actual or potential criminal, civil, or regulatory violation to the existence of the investigation and reveal investigative interest on the part of DHS or another agency. Access to the records would permit the individual who is the subject of a record to impede the investigation and avoid detection or apprehension. Amendment of the records would interfere with ongoing investigations and law enforcement activities and impose an impossible administrative burden by requiring investigations to be continuously reinvestigated. The information contained in the system may also include properly classified information, the release of which would pose a threat to national defense and/or foreign policy. In addition, permitting access and amendment to such information also could disclose security-sensitive information that could be detrimental to homeland security.

(c) From subsection (e)(1) (Relevancy and Necessity of Information) because in the course of investigations into potential violations of federal law, the accuracy of information obtained or introduced, occasionally may be unclear or the information may not be strictly relevant or necessary to a specific investigation. In the interests of effective enforcement of federal laws, it is appropriate to retain all information that may aid in establishing patterns of unlawful activity.

(d) From subsections (e)(4)(G), (H) and (I) (Agency Requirements), and (f) (Agency Rules), because portions of this system are exempt from the access provisions of subsection (d).

2. DHS–CRCL–001, Civil Rights and Civil Liberties Matters, which will cover allegations of abuses of civil rights and civil liberties that are submitted to the Office of CRCL. Pursuant to exemptions (k)(1), (k)(2) and (k)(5) of the Privacy Act, portions of this system are exempt from 5 U.S.C. 552a(c)(3);

(d); (e)(1); (e)(4)(G), (H) and (I) and (f). Exemptions from the particular subsections are justified, on a case by case basis to be determined at the time a request is made, for the following reasons:

(a) From subsection (c)(3) (Accounting for Disclosures) because release of the accounting of disclosures could alert the subject of an investigation of an actual or potential criminal, civil, or regulatory violation to the existence of the investigation and reveal investigative interest on the part of DHS or another agency. Disclosure of the accounting would therefore present a serious impediment to law enforcement efforts and efforts to preserve national security. Disclosure of the accounting would also permit the individual who is the subject of a record to impede the investigation and avoid detection or apprehension, which undermines the entire system.

(b) From subsection (d) (Access to Records) because access to the records contained in this system of records could inform the subject of an investigation of an actual or potential criminal, civil, or regulatory violation to the existence of the investigation and reveal investigative interest on the part of DHS as well as the recipient agency. Access to the records would permit the individual who is the subject of a record to impede the investigation and avoid detection or apprehension. Amendment of the records would interfere with ongoing investigations and law enforcement activities and impose an impossible administrative burden by requiring investigations to be continuously reinvestigated. The information contained in the system may also include properly classified information, the release of which would pose a threat to national defense and/or foreign policy. In addition, permitting access and amendment to such information also could disclose security-sensitive information that could be detrimental to homeland security.

(c) From subsection (e)(1) (Relevancy and Necessity of Information) because in the course of investigations into potential violations of federal law, the accuracy of information obtained or introduced, occasionally may be unclear or the information may not be strictly relevant or necessary to a specific investigation. In the interests of effective enforcement of federal laws, it is appropriate to retain all information that may aid in establishing patterns of unlawful activity.

(d) From subsections (e)(4)(G), (H) and (I) (Agency Requirements), and (f) (Agency Rules), because this system is exempt from the access provisions of subsection (d).

3. DHS–ALL–005, Redress and Response Records System. A portion of the following system of records is exempt from 5 U.S.C. 552a(c)(3) and (4); (d)(1), (2), (3), and (4); (e)(1), (2), (3), (4)(G) through (I), (5), and (8); (f), and (g); however, these exemptions apply only to the extent that information in this system records is recompiled or is created from information contained in other systems of records subject to such exemptions pursuant to 5 U.S.C. 552a(j)(2), (k)(1), (k)(2), and (k)(5). Further, no exemption shall be asserted with respect to information submitted by and collected from the individual or the individual's representative in the course of any redress process associated with this system of records. After conferring with the appropriate component or agency, DHS may waive applicable exemptions in appropriate circumstances and where it would not appear to interfere with or adversely affect the law enforcement or national security purposes of the systems from which the information is recompiled or in which it is contained. Exemptions from the above particular subsections are justified, on a case-by-case basis to be determined at the time a request is made, when information in this system records is recompiled or is created from information contained in other systems of records subject to exemptions for the following reasons:

(a) From subsection (c)(3) because making available to a record subject the accounting of disclosures from records concerning him or her would specifically reveal any investigative interest in the individual. Revealing this information could reasonably be expected to compromise ongoing efforts to investigate a known or suspected terrorist by notifying the record subject that he or she is under investigation. This information could also permit the record subject to take measures to impede the investigation, e.g., destroy evidence, intimidate potential witnesses, or flee the area to avoid or impede the investigation.

(b) From subsection (c)(4) because portions of this system are exempt from the access and amendment provisions of subsection (d).

(c) From subsections (d)(1), (2), (3), and (4) because these provisions concern individual access to and amendment of certain records contained in this system, including law enforcement counterterrorism, investigatory, and intelligence records. Compliance with these provisions could alert the subject of an investigation of the fact and nature of the investigation, and/or the investigative interest of intelligence or law enforcement agencies; compromise sensitive information related to national security; interfere with the overall law enforcement process by leading to the destruction of evidence, improper influencing of witnesses, fabrication of testimony, and/or flight of the subject; could

identify a confidential source or disclose information which would constitute an unwarranted invasion of another's personal privacy; reveal a sensitive investigative or intelligence technique; or constitute a potential danger to the health or safety of law enforcement personnel, confidential informants, and witnesses. Amendment of these records would interfere with ongoing counterterrorism, law enforcement, or intelligence investigations and analysis activities and impose an impossible administrative burden by requiring investigations, analyses, and reports to be continuously reinvestigated and revised.

(d) From subsection (e)(1) because it is not always possible for DHS or other agencies to know in advance what information is relevant and necessary for it to complete an identity comparison between the individual seeking redress and a known or suspected terrorist. Also, because DHS and other agencies may not always know what information about an encounter with a known or suspected terrorist will be relevant to law enforcement for the purpose of conducting an operational response.

(e) From subsection (e)(2) because application of this provision could present a serious impediment to counterterrorism, law enforcement, or intelligence efforts in that it would put the subject of an investigation, study, or analysis on notice of that fact, thereby permitting the subject to engage in conduct designed to frustrate or impede that activity. The nature of counterterrorism, law enforcement, or intelligence investigations is such that vital information about an individual frequently can be obtained only from other persons who are familiar with such individual and his/her activities. In such investigations it is not feasible to rely upon information furnished by the individual concerning his own activities.

(f) From subsection (e)(3), to the extent that this subsection is interpreted to require DHS to provide notice to an individual if DHS or another agency receives or collects information about that individual during an investigation or from a third party. Should the subsection be so interpreted, exemption from this provision is necessary to avoid impeding counterterrorism, law enforcement, or intelligence efforts by putting the subject of an investigation, study, or analysis on notice of that fact, thereby permitting the subject to engage in conduct intended to frustrate or impede that activity.

(g) From subsections (e)(4)(G), (H) and (I) (Agency Requirements) because portions of this system are exempt from the access and amendment provisions of subsection (d).

(h) From subsection (e)(5) because many of the records in this system coming from other system of records are derived from other domestic and foreign agency record systems and therefore it is not possible for DHS to vouch for their compliance with this provision; however, the DHS has implemented internal quality assurance procedures to ensure that data used in the redress process is as thorough, accurate, and current as possible. In addition, in the collection of information for law enforcement, counterterrorism, and intelligence purposes, it is impossible to determine in advance what information is accurate, relevant, timely, and complete. With the passage of time, seemingly irrelevant or untimely information may acquire new significance as further investigation brings new details to light. The restrictions imposed by (e)(5) would limit the ability of those agencies' trained investigators and intelligence analysts to exercise their judgment in conducting investigations and impede the development of intelligence necessary for effective law enforcement and counterterrorism efforts. The DHS has, however, implemented internal quality assurance procedures to ensure that the data used in the redress process is as thorough, accurate, and current as possible.

(i) From subsection (e)(8) because to require individual notice of disclosure of information due to compulsory legal process would pose an impossible administrative burden on DHS and other agencies and could alert the subjects of counterterrorism, law enforcement, or intelligence investigations to the fact of those investigations when not previously known.

(j) From subsection (f) (Agency Rules) because portions of this system are exempt from the access and amendment provisions of subsection (d).

(k) From subsection (g) to the extent that the system is exempt from other specific subsections of the Privacy Act.

4. The Department of Homeland Security Automated Biometric Identification System (IDENT) consists of electronic and paper records and will be used by DHS and its components. IDENT is the primary repository of biometric information held by DHS in connection with its several and varied missions and functions, including, but not limited to: The enforcement of civil and criminal laws (including the immigration law); investigations, inquiries, and proceedings thereunder; and national security and intelligence activities. IDENT is a centralized and dynamic DHS-wide biometric database that also contains limited biographic and encounter history information needed to place the biometric information in proper context. The information is collected by, on behalf of, in support of, or in cooperation with DHS and its components and may contain personally identifiable information collected by other Federal, State, local, tribal, foreign, or international government agencies.

Pursuant to exemptions 5 U.S.C. 552a(j)(2) of the Privacy Act, portions of this system are exempt from 5 U.S.C. 552a(c)(3) and (4);

(d); (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(5) and (e)(8); (f)(2) through (5); and (g). Pursuant to 5 U.S.C. 552a(k)(2), this system is exempt from the following provisions of the Privacy Act, subject to the limitations set forth in those subsections: 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4)(G), and (e)(4)(H). Exemptions from these particular subsections are justified, on a case-by-case basis to be determined at the time a request is made, for the following reasons:

(a) From subsection (c)(3) and (4) (Accounting for Disclosures) because release of the accounting of disclosures could alert the subject of an investigation of an actual or potential criminal, civil, or regulatory violation to the existence of the investigation; and reveal investigative interest on the part of DHS as well as the recipient agency. Disclosure of the accounting would therefore present a serious impediment to law enforcement efforts and/or efforts to preserve national security. Disclosure of the accounting would also permit the individual who is the subject of a record to impede the investigation, to tamper with witnesses or evidence, and to avoid detection or apprehension, which would undermine the entire investigative process.

(b) From subsection (d) (Access to Records) because access to the records contained in this system of records could inform the subject of an investigation of an actual or potential criminal, civil, or regulatory violation, to the existence of the investigation, and reveal investigative interest on the part of DHS or another agency. Access to the records could permit the individual who is the subject of a record to impede the investigation, to tamper with witnesses or evidence, and to avoid detection or apprehension. Amendment of the records could interfere with ongoing investigations and law enforcement activities and would impose an impossible administrative burden by requiring investigations to be continuously reinvestigated. In addition, permitting access and amendment to such information could disclose security-sensitive information that could be detrimental to homeland security.

(c) From subsection (e)(1) (Relevancy and Necessity of Information) because in the course of investigations into potential violations of Federal law, the accuracy of information obtained or introduced occasionally may be unclear or the information may not be strictly relevant or necessary to a specific investigation. In the interests of effective law enforcement, it is appropriate to retain all information that may aid in establishing patterns of unlawful activity.

(d) From subsection (e)(2) (Collection of Information from Individuals) because requiring that information be collected from the subject of an investigation would alert the subject to the nature or existence of an investigation, thereby interfering with the related investigation and law enforcement activities.

(e) From subsection (e)(3) (Notice to Subjects) because providing such detailed information would impede law enforcement in that it could compromise the existence of a confidential investigation or reveal the identity of witnesses or confidential informants.

(f) From subsections (e)(4)(G) and (H) (Agency Requirements), and (f)(2 through 5) (Agency Rules) because portions of this system are exempt from the individual access provisions of subsection (d) and thereby would not require DHS to establish requirements or rules for records which are exempted from access.

(g) From subsection (e)(5) (Collection of Information) because in the collection of information for law enforcement purposes it is impossible to determine in advance what information is accurate, relevant, timely, and complete. Compliance with (e)(5) would preclude DHS agents from using their investigative training and exercise of good judgment to both conduct and report on investigations.

(h) From subsection (e)(8) (Notice on Individuals) because compliance would interfere with DHS' ability to obtain, serve, and issue subpoenas, warrants, and other law enforcement mechanisms that may be filed under seal, and could result in disclosure of investigative techniques, procedures, and evidence.

(i) From subsection (g) to the extent that the system is exempt from other specific subsections of the Privacy Act.

5. DHS–OIG–2005–002, the Office of Inspector General Investigative Records System includes both paper investigative files and the ''Investigation Data Management System'' (IDMS)—an electronic case management and tracking information system, which also generates reports. The Investigative Records System consists of records and information collected and maintained to receive and process allegations of violations of criminal, civil, and administrative laws and regulations relating to DHS programs, operations, and employees, as well as contractors and other individuals and entities associated with the DHS. The system allows the DHS Office of Inspector General to monitor case assignments, disposition, status, and results; manage investigations and information provided during the course of such investigations; track actions taken by management regarding misconduct; track legal actions taken following referrals to the United States Department of Justice for prosecution or litigation; provide information relating to any adverse action or other proceeding that may occur as a result of the findings of an investigation; retrieve investigation results; provide a system for creating and reporting

statistical information; and to provide a system to track Office of Inspector General investigators' firearms qualification records and property records. Pursuant to exemptions 5 U.S.C. 552a(j)(2) of the Privacy Act, portions of this system are exempt from 5 U.S.C. 552a(c)(3) and (4); (d); (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(5) and (e)(8); (f); and (g). Pursuant to 5 U.S.C. 552a (k)(1), (k)(2) and (k)(5), this system is exempt from the following provisions of the Privacy Act, subject to the limitations set forth in those subsections: 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), and (f). Exemptions from these particular subsections are justified, on a case-by-case basis to be determined at the time a request is made, for the following reasons:

(a) From subsection (c)(3) and (c)(4) (Accounting for Disclosures) because release of the accounting of disclosures could alert the subject of an investigation of an actual or potential criminal, civil, or regulatory violation, to the existence of the investigation; and reveal investigative interest on the part of DHS as well as the recipient agency. Disclosure of the accounting would therefore present a serious impediment to law enforcement efforts and/or efforts to preserve national security. Disclosure of the accounting would also permit the individual who is the subject of a record to impede the investigation, tamper with witnesses or evidence, and avoid detection or apprehension, which would undermine the entire investigative process.

(b) From subsection (d) (Access to Records) because access to the records contained in this system of records could inform the subject of an investigation of an actual or potential criminal, civil, or regulatory violation, to the existence of the investigation, and reveal investigative interest on the part of DHS or another agency. Access to the records could permit the individual who is the subject of a record to impede the investigation, tamper with witnesses or evidence, and avoid detection or apprehension. Amendment of the records could interfere with ongoing investigations and law enforcement activities and would impose an impossible administrative burden by requiring investigations to be continuously reinvestigated. In addition, permitting access and amendment to such information could disclose security-sensitive information that could be detrimental to homeland security.

(c) From subsection (e)(1) (Relevancy and Necessity of Information) because in the course of investigations into potential violations of federal law, the accuracy of information obtained or introduced occasionally may be unclear or the information may not be strictly relevant or necessary to a specific investigation. In the interests of effective law enforcement, it is appropriate to retain all information that may aid in establishing patterns of unlawful activity.

(d) From subsection (e)(2) (Collection of Information from Individuals) because requiring that information be collected from the subject of an investigation would alert the subject as to the nature or existence of an investigation, thereby interfering with the related investigation and law enforcement activities.

(e) From subsection (e)(3) (Notice to Subjects) because providing such detailed information would impede law enforcement in that it could compromise the existence of a confidential investigation or reveal the identity of witnesses or confidential informants.

(f) From subsections (e)(4)(G) and (H) (Agency Requirements), (f) (Agency Rules), and (g) (Civil Remedies) because portions of this system are exempt from the individual access provisions of subsection (d).

(g) From subsection (e)(5) (Collection of Information) because in the collection of information for law enforcement purposes it is impossible to determine in advance what information is accurate, relevant, timely, and complete. Compliance with (e)(5) would preclude OIG special agents from using their investigative training and exercise of good judgment to both conduct and report on investigations.

(h) From subsection (e)(8)(Notice on Individuals) because compliance would interfere with OIG's ability to obtain, serve, and issue subpoenas, warrants and other law enforcement mechanisms that may be filed under seal, and could result in disclosure of investigative techniques, procedures, and evidence.

6. The Immigration and Customs Enforcement (ICE) Pattern Analysis and Information Collection (ICEPIC) System consists of electronic and paper records and will be used by DHS and its components. ICEPIC is a repository of information held by DHS in connection with its several and varied missions and functions, including, but not limited to: The enforcement of civil and criminal laws (including the immigration law); investigations, inquiries, and proceedings there under; and national security and intelligence activities. ICEPIC contains information that is collected by, on behalf of, in support of, or in cooperation with DHS and its components and may contain personally identifiable information collected by other Federal, State, local, tribal, foreign, or international government agencies.

Pursuant to exemption 5 U.S.C. 552a(j)(2) of the Privacy Act, portions of this system are exempt from 5 U.S.C. 552a(c)(3) and (4); (d); (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(5) and (e)(8); (f), and (g). Pursuant to 5 U.S.C. 552a(k)(2), this system is exempt from the following provisions of the Privacy Act, subject to the limitations set forth in those subsections: 5 U.S.C. 552a(c)(3), (d), (e)(1),

(e)(4)(G), (e)(4)(H), and (f). Exemptions from these particular subsections are justified, on a case-by-case basis to be determined at the time a request is made, for the following reasons:

(a) From subsection (c)(3) and (4) (Accounting for Disclosures) because release of the accounting of disclosures could alert the subject of an investigation of an actual or potential criminal, civil, or regulatory violation to the existence of the investigation, and reveal investigative interest on the part of DHS as well as the recipient agency. Disclosure of the accounting would therefore present a serious impediment to law enforcement efforts and/or efforts to preserve national security. Disclosure of the accounting would also permit the individual who is the subject of a record to impede the investigation, to tamper with witnesses or evidence, and to avoid detection or apprehension, which would undermine the entire investigative process.

(b) From subsection (d) (Access to Records) because access to the records contained in this system of records could inform the subject of an investigation of an actual or potential criminal, civil, or regulatory violation, to the existence of the investigation, and reveal investigative interest on the part of DHS or another agency. Access to the records could permit the individual who is the subject of a record to impede the investigation, to tamper with witnesses or evidence, and to avoid detection or apprehension. Amendment of the records could interfere with ongoing investigations and law enforcement activities and would impose an impossible administrative burden by requiring investigations to be continuously reinvestigated. In addition, permitting access and amendment to such information could disclose security-sensitive information that could be detrimental to homeland security.

(c) From subsection (e)(1) (Relevancy and Necessity of Information) because in the course of investigations into potential violations of Federal law, the accuracy of information obtained or introduced occasionally may be unclear or the information may not be strictly relevant or necessary to a specific investigation. In the interests of effective law enforcement, it is appropriate to retain all information that may aid in establishing patterns of unlawful activity.

(d) From subsection (e)(2) (Collection of Information from Individuals) because requiring that information be collected from the subject of an investigation would alert the subject to the nature or existence of an investigation, thereby interfering with the related investigation and law enforcement activities.

(e) From subsection (e)(3) (Notice to Subjects) because providing such detailed information would impede law enforcement in that it could compromise investigations by: revealing the existence of an otherwise confidential investigation and thereby provide an opportunity for the subject of an investigation to conceal evidence, alter patterns of behavior, or take other actions that could thwart investigative efforts; reveal the identity of witnesses in investigations, thereby providing an opportunity for the subjects of the investigations or others to harass, intimidate, or otherwise interfere with the collection of evidence or other information from such witnesses; or reveal the identity of confidential informants, which would negatively affect the informant's usefulness in any ongoing or future investigations and discourage members of the public from cooperating as confidential informants in any future investigations.

(f) From subsections (e)(4)(G) and (H) (Agency Requirements), and (f) (Agency Rules) because portions of this system are exempt from the individual access provisions of subsection (d) for the reasons noted above, and therefore DHS is not required to establish requirements, rules, or procedures with respect to such access. Providing notice to individuals with respect to existence of records pertaining to them in the system of records or otherwise setting up procedures pursuant to which individuals may access and view records pertaining to themselves in the system would undermine investigative efforts and reveal the identities of witnesses, and potential witnesses, and confidential informants.

(g) From subsection (e)(5) (Collection of Information) because in the collection of information for law enforcement purposes it is impossible to determine in advance what information is accurate, relevant, timely, and complete. Compliance with (e)(5) would preclude DHS agents from using their investigative training and exercise of good judgment to both conduct and report on investigations.

(h) From subsection (e)(8) (Notice on Individuals) because compliance would interfere with DHS' ability to obtain, serve, and issue subpoenas, warrants, and other law enforcement mechanisms that may be filed under seal, and could result in disclosure of investigative techniques, procedures, and evidence.

(i) From subsection (g) to the extent that the system is exempt from other specific subsections of the Privacy Act relating to individuals' rights to access and amend their records contained in the system. Therefore DHS is not required to establish rules or procedures pursuant to which individuals may seek a civil remedy for the agency's: Refusal to amend a record; Refusal to comply with a request for access to records; failure to maintain accurate, relevant timely and complete records; or failure to otherwise comply with an individual's right to access or amend records.

7. The Office of Intelligence and Analysis (I&A) Enterprise Records System (ERS) consists of records including intelligence information and other properly acquired information received from agencies and components of the federal government, foreign governments, organizations or entities, international organizations, state and local government agencies (including law enforcement agencies), and private sector entities, as well as information provided by individuals, regardless of the medium used to submit the information or the agency to which it was submitted. This system also contains: Information regarding persons on watch lists with known or suspected links to terrorism; the results of intelligence analysis and reporting; ongoing law enforcement investigative information, information systems security analysis and reporting; active immigration, customs, border and transportation, security related records; historical law enforcement, operational, immigration, customs, border and transportation security, and other administrative records; relevant and appropriately acquired financial information; and public-source data such as that contained in media reports and commercially available databases, as appropriate. Data about the providers of information, including the means of transmission of the data, is also retained.

(a) Pursuant to 5 U.S.C. 552a(k)(1), (2), (3), and (5), this system of records is exempt from 5 U.S.C. 552a(c)(3), (d)(1), (2), (3), (4), and (5), (e)(1), (e)(4)(G), (H), and (I), and (f). These exemptions apply only to the extent that information in this system is subject to exemption. Where compliance would not appear to interfere with or adversely affect the intelligence, counterterrorism, homeland security, and related law enforcement purposes of this system, the applicable exemption may be waived by DHS.

(b) Exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (c)(3) (Accounting for Disclosures) because making available to a record subject the accounting of disclosures from records concerning him/her would specifically reveal any interest in the individual of an intelligence, counterterrorism, homeland security, or related investigative nature. Revealing this information could reasonably be expected to compromise ongoing efforts of the Department to identify, understand, analyze, investigate, and counter the activities of:

(i) Known or suspected terrorists and terrorist groups;

(ii) Groups or individuals known or believed to be assisting or associated with known or suspected terrorists or terrorist groups;

(iii) Individuals known, believed to be, or suspected of being engaged in activities constituting a threat to homeland security, including (1) activities which impact or concern the security, safety, and integrity of our international borders, including any illegal activities that either cross our borders or are otherwise in violation of the immigration or customs laws and regulations of the United States; (2) activities which could reasonably be expected to assist in the development or use of a weapon of mass effect; (3) activities meant to identify, create, or exploit the vulnerabilities of, or undermine, the ''key resources'' (as defined in section 2(9) of the Homeland Security Act of 2002) and ''critical infrastructure'' (as defined in 42 U.S.C. 5195c(c)) of the United States, including the cyber and national telecommunications infrastructure and the availability of a viable national security and emergency preparedness communications infrastructure; (4) activities detrimental to the security of transportation and transportation systems; (5) activities which violate or are suspected of violating the laws relating to counterfeiting of obligations and securities of the United States and other financial crimes, including access device fraud, financial institution fraud, identity theft, computer fraud; and computer-based attacks on our nation's financial, banking, and telecommunications infrastructure; (6) activities, not wholly conducted within the United States, which violate or are suspected of violating the laws which prohibit the production, transfer, or sale of narcotics or substances controlled in accordance with Title 21 of the United States Code, or those associated activities otherwise prohibited by Titles 21 and 46 of the United States Code; (7) activities which impact, concern, or otherwise threaten the safety and security of the President and Vice President, their families, heads of state, and other designated individuals; the White House, Vice President's residence, foreign missions, and other designated buildings within the United States; (8) activities which impact, concern, or otherwise threaten domestic maritime safety and security, maritime mobility and navigation, or the integrity of the domestic maritime environment; (9) activities which impact, concern, or otherwise threaten the national operational capability of the Department to respond to natural and manmade major disasters and emergencies, including acts of terrorism; (10) activities involving the importation, possession, storage, development, or transportation of nuclear or radiological material without authorization or for use against the United States;

(iv) Foreign governments, organizations, or persons (foreign powers); and

(v) Individuals engaging in intelligence activities on behalf of a foreign power or terrorist group.

Thus, by notifying the record subject that he/she is the focus of such efforts or interest

on the part of DHS, or other agencies with whom DHS is cooperating and to whom the disclosures were made, this information could permit the record subject to take measures to impede or evade such efforts, including the taking of steps to deceive DHS personnel and deny them the ability to adequately assess relevant information and activities, and could inappropriately disclose to the record subject the sensitive methods and/or confidential sources used to acquire the relevant information against him/her. Moreover, where the record subject is the actual target of a law enforcement investigation, this information could permit him/her to take measures to impede the investigation, for example, by destroying evidence, intimidating potential witnesses, or avoiding detection or apprehension.

(2) From subsections (d)(1), (2), (3), and (4) (Access to Records) because these provisions concern individual rights of access to and amendment of records (including the review of agency denials of either) contained in this system, which consists of intelligence, counterterrorism, homeland security, and related investigatory records concerning efforts of the Department, as described more fully in subsection (b)(1), above. Compliance with these provisions could inform or alert the subject of an intelligence, counterterrorism, homeland security, or investigatory effort undertaken on behalf of the Department, or by another agency with whom DHS is cooperating, of the fact and nature of such efforts, and/or the relevant intelligence, counterterrorism, homeland security, or investigatory interest of DHS and/or other intelligence, counterterrorism, or law enforcement agencies. Moreover, compliance could also compromise sensitive information either classified in the interest of national security, or which otherwise requires, as appropriate, safeguarding and protection from unauthorized disclosure; identify a confidential source or disclose information which would constitute an unwarranted invasion of another individual's personal privacy; reveal a sensitive intelligence or investigative technique or method, including interfering with intelligence or law enforcement investigative processes by permitting the destruction of evidence, improper influencing or intimidation of witnesses, fabrication of statements or testimony, and flight from detection or apprehension; or constitute a potential danger to the health or safety of intelligence, counterterrorism, homeland security, and law enforcement personnel, confidential sources and informants, and potential witnesses. Amendment of the records would interfere with ongoing intelligence, counterterrorism, homeland security, and law enforcement investigations and activities, including incident reporting and analysis activities, and impose an impossible administrative burden by requiring investigations, reports, and analyses to be continuously reinvestigated and revised.

(3) From subsection (e)(1) (Relevant and Necessary) because it is not always possible for DHS to know in advance of its receipt the relevance and necessity of each piece of information it acquires in the course of an intelligence, counterterrorism, or investigatory effort undertaken on behalf of the Department, or by another agency with whom DHS is cooperating. In the context of the authorized intelligence, counterterrorism, and investigatory activities undertaken by DHS personnel, relevance and necessity are questions of analytic judgment and timing, such that what may appear relevant and necessary when acquired ultimately may be deemed unnecessary upon further analysis and evaluation. Similarly, in some situations, it is only after acquired information is collated, analyzed, and evaluated in light of other available evidence and information that its relevance and necessity can be established or made clear. Constraining the initial acquisition of information included within the ERS in accordance with the relevant and necessary requirement of subsection (e)(1) could discourage the appropriate receipt of and access to information which DHS and I&A are otherwise authorized to receive and possess under law, and thereby impede efforts to detect, deter, prevent, disrupt, or apprehend terrorists or terrorist groups, and/or respond to terrorist or other activities which threaten homeland security. Notwithstanding this claimed exemption, which would permit the acquisition and temporary maintenance of records whose relevance to the purpose of the ERS may be less than fully clear, DHS will only disclose such records after determining whether such disclosures are themselves consistent with the published ERS routine uses. Moreover, it should be noted that, as concerns the receipt by I&A, for intelligence purposes, of information in any record which identifies a U.S. Person, as defined in Executive Order 12333, as amended, such receipt, and any subsequent use or dissemination of that identifying information, is undertaken consistent with the procedures established and adhered to by I&A pursuant to that Executive Order. Specifically, I&A intelligence personnel may acquire information which identifies a particular U.S. Person, retain it within or disseminate it from ERS, as appropriate, only when it is determined that the personally identifying information is necessary for the conduct of I&A's functions, and otherwise falls into one of a limited number of authorized categories, each of which reflects discrete activities for which information on individuals would be utilized by the Department in the overall execution of its statutory mission.

(4) From subsections (e)(4) (G), (H) and (I) (Access), and (f) (Agency Rules), inasmuch as

it is unnecessary for the publication of rules and procedures contemplated therein since the ERS, pursuant to subsections (1) and (2), above, will be exempt from the underlying duties to provide to individuals notification about, access to, and the ability to amend or correct the information pertaining to them in, this system of records. Furthermore, to the extent that subsection (e)(4)(I) is construed to require more detailed disclosure than the information accompanying the system notice for ERS, as published in today's FEDERAL REGISTER, exemption from it is also necessary to protect the confidentiality, privacy, and physical safety of sources of information, as well as the methods for acquiring it. Finally, greater specificity concerning the description of categories of sources of properly classified records could also compromise or otherwise cause damage to the national or homeland security.

8. The information in MAGNET establishes Maritime Domain Awareness. Maritime Domain Awareness is the collection of as much information as possible about the maritime world. In other words, MAGNET establishes a full awareness of the entities (people, places, things) and their activities within the maritime industry. MAGNET collects the information and connects the information in order to fulfill this need.

Coast Guard Intelligence (through MAGNET) will provide awareness to the field as well as to strategic planners by aggregating data from existing sources internal and external to the Coast Guard or DHS. MAGNET will correlate and provide the medium to display information such as ship registry, current ship position, crew background, passenger lists, port history, cargo, known criminal vessels, and suspect lists. Coast Guard Intelligence (CG–2) will serve as MAGNET's executive agent and will share appropriate aggregated data to other law enforcement and intelligence agencies.

(a) Pursuant to 5 U.S.C. 522a(j)(2), (k)(1), and (k)(2) this system of records is exempt from 5 U.S.C. 552a(c)(3) and (4), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(2), (e)(3), (e)(4) (G), (H), and (I), e(5), e(8), e(12), (f), and (g). These exemptions apply only to the extent that information in this system is subject to exemption. Where compliance would not appear to interfere with or adversely affect the intelligence, counterterrorism, homeland security, and related law enforcement purposes of this system, the applicable exemption may be waived by DHS.

(b) Exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (c)(3) (Accounting of Certain Disclosures) because making available to a record subject the accounting of disclosures from records concerning him/her would specifically reveal any interest in the individual of an intelligence, counterterrorism, homeland security, law enforcement or related investigative nature. Revealing this information could reasonably be expected to compromise ongoing efforts of the Department to identify, understand, analyze, investigate, and counter the activities of:

(i) Known or suspected terrorists and terrorist groups;

(ii) Groups or individuals known or believed to be assisting or associated with known or suspected terrorists or terrorist groups;

(iii) Individuals known, believed to be, or suspected of being engaged in activities constituting a threat to homeland security, including (1) activities which impact or concern the security, safety, and integrity of our international borders, including any illegal activities that either cross our borders or are otherwise in violation of the immigration or customs laws and regulations of the United States; (2) activities which could reasonably be expected to assist in the development or use of a weapon of mass effect; (3) activities meant to identify, create, or exploit the vulnerabilities of, or undermine, the ''key resources'' (as defined in section 2(9) of the Homeland Security Act of 2002) and ''critical infrastructure'' (as defined in 42 U.S.C. 5195c(c)) of the United States, including the cyber and national telecommunications infrastructure and the availability of a viable national security and emergency preparedness communications infrastructure; (4) activities detrimental to the security of transportation and transportation systems; (5) activities which violate or are suspected of violating the laws relating to counterfeiting of obligations and securities of the United States and other financial crimes, including access device fraud, financial institution fraud, identity theft, computer fraud; and computer-based attacks on our nation's financial, banking, and telecommunications infrastructure; (6) activities, not wholly conducted within the United States, which violate or are suspected of violating the laws which prohibit the production, transfer, or sale of narcotics or substances controlled in accordance with Title 21 of the United States Code, or those associated activities otherwise prohibited by Titles 21 and 46 of the United States Code; (7) activities which impact, concern, or otherwise threaten the safety and security of the President and Vice President, their families, heads of state, and other designated individuals; the White House, Vice President's residence, foreign missions, and other designated buildings within the United States; (8) activities which impact, concern, or otherwise threaten domestic maritime safety and security, maritime mobility and navigation, or the integrity of the domestic maritime environment; (9) activities which impact, concern, or otherwise threaten the national operational capability of the Department to

respond to natural and manmade major disasters and emergencies, including acts of terrorism; (10) activities involving the importation, possession, storage, development, or transportation of nuclear or radiological material without authorization or for use against the United States;

(iv) Foreign governments, organizations, or persons (foreign powers); and

(v) Individuals engaging in intelligence activities on behalf of a foreign power or terrorist group.

Thus, by notifying the record subject that he/she is the focus of such efforts or interest on the part of DHS, or other agencies with whom DHS is cooperating and to whom the disclosures were made, this information could permit the record subject to take measures to impede or evade such efforts, including the taking of steps to deceive DHS personnel and deny them the ability to adequately assess relevant information and activities, and could inappropriately disclose to the record subject the sensitive methods and/or confidential sources used to acquire the relevant information against him/her. Moreover, where the record subject is the actual target of a law enforcement investigation, this information could permit him/her to take measures to impede the investigation, for example, by destroying evidence, intimidating potential witnesses, or avoiding detection or apprehension.

(2) From subsection (c)(4) (Accounting for Disclosure, notice of dispute) because certain records in this system are exempt from the access and amendment provisions of subsection (d), this requirement to inform any person or other agency about any correction or notation of dispute that the agency made with regard to those records, should not apply.

(3) From subsections (d)(1), (2), (3), and (4) (Access to Records) because these provisions concern individual rights of access to and amendment of records (including the review of agency denials of either) contained in this system, which consists of intelligence, counterterrorism, homeland security, and related investigatory records concerning efforts of the Department, as described more fully in subsection (b)(1), above. Compliance with these provisions could inform or alert the subject of an intelligence, counterterrorism, homeland security, or investigatory effort undertaken on behalf of the Department, or by another agency with whom DHS is cooperating, of the fact and nature of such efforts, and/or the relevant intelligence, counterterrorism, homeland security, or investigatory interest of DHS and/or other intelligence, counterterrorism, or law enforcement agencies. Moreover, compliance could also compromise sensitive information either classified in the interest of national security, or which otherwise requires, as appropriate, safeguarding and protection from unauthorized disclosure; identify a confidential source or disclose information which would constitute an unwarranted invasion of another individual's personal privacy; reveal a sensitive intelligence or investigative technique or method, including interfering with intelligence or law enforcement investigative processes by permitting the destruction of evidence, improper influencing or intimidation of witnesses, fabrication of statements or testimony, and flight from detection or apprehension; or constitute a potential danger to the health or safety of intelligence, counterterrorism, homeland security, and law enforcement personnel, confidential sources and informants, and potential witnesses. Amendment of the records would interfere with ongoing intelligence, counterterrorism, homeland security, and law enforcement investigations and activities, including incident reporting and analysis activities, and impose an impossible administrative burden by requiring investigations, reports, and analyses to be continuously reinvestigated and revised.

(4) From subsection (e)(1) (Relevant and Necessary) because it is not always possible for DHS to know in advance of its receipt the relevance and necessity of each piece of information it acquires in the course of an intelligence, counterterrorism, or investigatory effort undertaken on behalf of the Department, or by another agency with whom DHS is cooperating. In the context of the authorized intelligence, counterterrorism, and investigatory activities undertaken by DHS personnel, relevance and necessity are questions of analytic judgment and timing, such that what may appear relevant and necessary when acquired ultimately may be deemed unnecessary upon further analysis and evaluation. Similarly, in some situations, it is only after acquired information is collated, analyzed, and evaluated in light of other available evidence and information that its relevance and necessity can be established or made clear. Constraining the initial acquisition of information included within the MAGNET in accordance with the relevant and necessary requirement of subsection (e)(1) could discourage the appropriate receipt of and access to information which DHS and MAGNET are otherwise authorized to receive and possess under law, and thereby impede efforts to detect, deter, prevent, disrupt, or apprehend terrorists or terrorist groups, and/or respond to terrorist or other activities which threaten homeland security. Notwithstanding this claimed exemption, which would permit the acquisition and temporary maintenance of records whose relevance to the purpose of the MAGNET may be less than fully clear, DHS will only disclose such records after determining whether such disclosures are themselves consistent with the published MAGNET routine uses. Moreover, it should be noted that, as

concerns the receipt by USCG, for intelligence purposes, of information in any record which identifies a U.S. Person, as defined in Executive Order 12333, as amended, such receipt, and any subsequent use or dissemination of that identifying information, is undertaken consistent with the procedures established and adhered to by USCG pursuant to that Executive Order. Specifically, USCG intelligence personnel may acquire information which identifies a particular U.S. Person, retain it within or disseminate it from MAGNET, as appropriate, only when it is determined that the personally identifying information is necessary for the conduct of USCG's functions, and otherwise falls into one of a limited number of authorized categories, each of which reflects discrete activities for which information on individuals would be utilized by the Department in the overall execution of its statutory mission.

(5) From subsection (e)(2) (Collection of Information from Individuals) because application of this provision could present a serious impediment to counterterrorism or law enforcement efforts in that it would put the subject of an investigation, study or analysis on notice of that fact, thereby permitting the subject to engage in conduct designed to frustrate or impede that activity. The nature of counterterrorism and law enforcement investigations is such that vital information about an individual frequently can be obtained only from other persons who are familiar with such individual and his/her activities. In such investigations it is not feasible to rely solely upon information furnished by the individual concerning his own activities.

(6) From subsection (e)(3) (Notice to Subjects), to the extent that this subsection is interpreted to require DHS to provide notice to an individual if DHS or another agency receives or collects information about that individual during an investigation or from a third party. Should the subsection be so interpreted, exemption from this provision is necessary to avoid impeding counterterrorism or law enforcement efforts by putting the subject of an investigation, study or analysis on notice of that fact, thereby permitting the subject to engage in conduct intended to frustrate or impede that activity.

(7) From subsections (e)(4) (G), (H) and (I) (Access), and (f) (Agency Rules), inasmuch as it is unnecessary for the publication of rules and procedures contemplated therein since the MAGNET, pursuant to subsections (3), above, will be exempt from the underlying duties to provide to individuals notification about, access to, and the ability to amend or correct the information pertaining to them in, this system of records. Furthermore, to the extent that subsection (e)(4)(I) is construed to require more detailed disclosure than the information accompanying the system notice for MAGNET, as published in today's FEDERAL REGISTER, exemption from it is also necessary to protect the confidentiality, privacy, and physical safety of sources of information, as well as the methods for acquiring it. Finally, greater specificity concerning the description of categories of sources of properly classified records could also compromise or otherwise cause damage to the national or homeland security.

(8) From subsection (e)(5) (Collection of Information) because many of the records in this system coming from other system of records are derived from other domestic and foreign agency record systems and therefore it is not possible for DHS to vouch for their compliance with this provision; however, the DHS has implemented internal quality assurance procedures to ensure that data used in its screening processes is as complete, accurate, and current as possible. In addition, in the collection of information for law enforcement and counterterrorism purposes, it is impossible to determine in advance what information is accurate, relevant, timely, and complete. With the passage of time, seemingly irrelevant or untimely information may acquire new significance as further investigation brings new details to light. The restrictions imposed by (e)(5) would limit the ability of those agencies' trained investigators and intelligence analysts to exercise their judgment in conducting investigations and impede the development of intelligence necessary for effective law enforcement and counterterrorism efforts.

(9) From subsection (e)(8) (Notice on Individuals) because to require individual notice of disclosure of information due to compulsory legal process would pose an impossible administrative burden on DHS and other agencies and could alert the subjects of counterterrorism or law enforcement investigations to the fact of those investigations then not previously known.

(10) From subsection (e)(12) (Matching Agreements) because requiring DHS to provide notice of alterations to existing matching agreements would impair DHS operations by indicating which data elements and information are valuable to DHS's analytical functions, thereby providing harmful disclosure of information to individuals who would seek to circumvent or interfere with DHS's missions.

(11) From subsection (g) (Civil Remedies) to the extent that the system is exempt from other specific subsections of the Privacy Act.

9. The Law Enforcement Information Data Base (LEIDB)/Pathfinder is a historical repository of selected Coast Guard message traffic. LEIDB/Pathfinder supports law enforcement intelligence activities. LEIDB/Pathfinder users can query archived message traffic and link relevant information across multiple data records within LEIDB/Pathfinder. Users have system tools enabling the

user to identify potential relationships between information contained in otherwise unrelated documents. These tools allow the analysts to build high precision and low return queries, which minimize false hits and maximize analyst productivity while working with unstructured, unformatted, free test documents.

(a) Pursuant to 5 U.S.C. 552a(j)(2), (k)(1), and (k)(2) certain records or information in the above mentioned system of records are exempt from 5 U.S.C. 552a(c)(3) and (4); (d)(1), (2), (3), and (4); (e)(1), (2), (3), (4)(G) through (I), (e)(5), and (8); (f), and (g). These exemptions apply only to the extent that information in this system is subject to exemption. Where compliance would not appear to interfere with or adversely affect the intelligence, counterterrorism, homeland security, and related law enforcement purposes of this system, the applicable exemption may be waived by DHS.

(b) Exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (c)(3) (Accounting for Disclosures) because making available to a record subject the accounting of disclosures from records concerning him/her would specifically reveal any interest in the individual of an intelligence, counterterrorism, homeland security, or related investigative nature. Revealing this information could reasonably be expected to compromise ongoing efforts of the Department to identify, understand, analyze, investigate, and counter the activities of:

(i) Known or suspected terrorists and terrorist groups;

(ii) Groups or individuals known or believed to be assisting or associated with known or suspected terrorists or terrorist groups;

(iii) Individuals known, believed to be, or suspected of being engaged in activities constituting a threat to homeland security, including (1) activities which impact or concern the security, safety, and integrity of our international borders, including any illegal activities that either cross our borders or are otherwise in violation of the immigration or customs laws and regulations of the United States; (2) activities which could reasonably be expected to assist in the development or use of a weapon of mass effect; (3) activities meant to identify, create, or exploit the vulnerabilities of, or undermine, the ''key resources'' (as defined in section 2(9) of the Homeland Security Act of 2002) and ''critical infrastructure'' (as defined in 42 U.S.C. 5195c(c)) of the United States, including the cyber and national telecommunications infrastructure and the availability of a viable national security and emergency preparedness communications infrastructure; (4) activities detrimental to the security of transportation and transportation systems; (5) activities which violate or are suspected of violating the laws relating to counterfeiting of obligations and securities of the United States and other financial crimes, including access device fraud, financial institution fraud, identity theft, computer fraud; and computer-based attacks on our nation's financial, banking, and telecommunications infrastructure; (6) activities, not wholly conducted within the United States, which violate or are suspected of violating the laws which prohibit the production, transfer, or sale of narcotics or substances controlled in accordance with Title 21 of the United States Code, or those associated activities otherwise prohibited by Titles 21 and 46 of the United States Code; (7) activities which impact, concern, or otherwise threaten the safety and security of the President and Vice President, their families, heads of state, and other designated individuals; the White House, Vice President's residence, foreign missions, and other designated buildings within the United States; (8) activities which impact, concern, or otherwise threaten domestic maritime safety and security, maritime mobility and navigation, or the integrity of the domestic maritime environment; (9) activities which impact, concern, or otherwise threaten the national operational capability of the Department to respond to natural and manmade major disasters and emergencies, including acts of terrorism; (10) activities involving the importation, possession, storage, development, or transportation of nuclear or radiological material without authorization or for use against the United States;

(iv) Foreign governments, organizations, or persons (foreign powers); and

(v) Individuals engaging in intelligence activities on behalf of a foreign power or terrorist group.

Thus, by notifying the record subject that he/she is the focus of such efforts or interest on the part of DHS, or other agencies with whom DHS is cooperating and to whom the disclosures were made, this information could permit the record subject to take measures to impede or evade such efforts, including the taking of steps to deceive DHS personnel and deny them the ability to adequately assess relevant information and activities, and could inappropriately disclose to the record subject the sensitive methods and/or confidential sources used to acquire the relevant information against him/her. Moreover, where the record subject is the actual target of a law enforcement investigation, this information could permit him/her to take measures to impede the investigation, for example, by destroying evidence, intimidating potential witnesses, or avoiding detection or apprehension.

(2) From subsection (c)(4) (Accounting for Disclosure, notice of dispute) because certain records in this system are exempt from the

access and amendment provisions of subsection (d), this requirement to inform any person or other agency about any correction or notation of dispute that the agency made with regard to those records, should not apply.

(3) From subsections (d)(1), (2), (3), and (4) (Access to Records) because these provisions concern individual rights of access to and amendment of records (including the review of agency denials of either) contained in this system, which consists of intelligence, counterterrorism, homeland security, and related investigatory records concerning efforts of the Department, as described more fully in subsection (b)(1), above. Compliance with these provisions could inform or alert the subject of an intelligence, counterterrorism, homeland security, or investigatory effort undertaken on behalf of the Department, or by another agency with whom DHS is cooperating, of the fact and nature of such efforts, and/or the relevant intelligence, counterterrorism, homeland security, or investigatory interest of DHS and/or other intelligence, counterterrorism, or law enforcement agencies. Moreover, compliance could also compromise sensitive information either classified in the interest of national security, or which otherwise requires, as appropriate, safeguarding and protection from unauthorized disclosure; identify a confidential source or disclose information which would constitute an unwarranted invasion of another individual's personal privacy; reveal a sensitive intelligence or investigative technique or method, including interfering with intelligence or law enforcement investigative processes by permitting the destruction of evidence, improper influencing or intimidation of witnesses, fabrication of statements or testimony, and flight from detection or apprehension; or constitute a potential danger to the health or safety of intelligence, counterterrorism, homeland security, and law enforcement personnel, confidential sources and informants, and potential witnesses. Amendment of the records would interfere with ongoing intelligence, counterterrorism, homeland security, and law enforcement investigations and activities, including incident reporting and analysis activities, and impose an impossible administrative burden by requiring investigations, reports, and analyses to be continuously reinvestigated and revised.

(4) From subsection (e)(1) (Relevant and Necessary) because it is not always possible for DHS to know in advance of its receipt the relevance and necessity of each piece of information it acquires in the course of an intelligence, counterterrorism, or investigatory effort undertaken on behalf of the Department, or by another agency with whom DHS is cooperating. In the context of the authorized intelligence, counterterrorism, and investigatory activities undertaken by DHS personnel, relevance and necessity are questions of analytic judgment and timing, such that what may appear relevant and necessary when acquired ultimately may be deemed unnecessary upon further analysis and evaluation. Similarly, in some situations, it is only after acquired information is collated, analyzed, and evaluated in light of other available evidence and information that its relevance and necessity can be established or made clear. Constraining the initial acquisition of information included within the LEIDB in accordance with the relevant and necessary requirement of subsection (e)(1) could discourage the appropriate receipt of and access to information which DHS and USCG are otherwise authorized to receive and possess under law, and thereby impede efforts to detect, deter, prevent, disrupt, or apprehend terrorists or terrorist groups, and/or respond to terrorist or other activities which threaten homeland security. Notwithstanding this claimed exemption, which would permit the acquisition and temporary maintenance of records whose relevance to the purpose of the LEIDB may be less than fully clear, DHS will only disclose such records after determining whether such disclosures are themselves consistent with the published LEIDB routine uses. Moreover, it should be noted that, as concerns the receipt by USCG, for intelligence purposes, of information in any record which identifies a U.S. Person, as defined in Executive Order 12333, as amended, such receipt, and any subsequent use or dissemination of that identifying information, is undertaken consistent with the procedures established and adhered to by USCG pursuant to that Executive Order. Specifically, USCG intelligence personnel may acquire information which identifies a particular U.S. Person, retain it within or disseminate it from LEIDB, as appropriate, only when it is determined that the personally identifying information is necessary for the conduct of USCG's functions, and otherwise falls into one of a limited number of authorized categories, each of which reflects discrete activities for which information on individuals would be utilized by the Department in the overall execution of its statutory mission.

(5) From subsection (e)(2) (Collection of Information from Individuals) because application of this provision could present a serious impediment to counterterrorism or law enforcement efforts in that it would put the subject of an investigation, study or analysis on notice of that fact, thereby permitting the subject to engage in conduct designed to frustrate or impede that activity. The nature of counterterrorism, and law enforcement investigations is such that vital information

about an individual frequently can be obtained only from other persons who are familiar with such individual and his/her activities. In such investigations it is not feasible to rely solely upon information furnished by the individual concerning his own activities.

(6) From subsection (e)(3) (Notice to Subjects), to the extent that this subsection is interpreted to require DHS to provide notice to an individual if DHS or another agency receives or collects information about that individual during an investigation or from a third party. Should the subsection be so interpreted, exemption from this provision is necessary to avoid impeding counterterrorism or law enforcement efforts by putting the subject of an investigation, study or analysis on notice of that fact, thereby permitting the subject to engage in conduct intended to frustrate or impede that activity.

(7) From subsections (e)(4) (G), (H) and (I) (Access), inasmuch as it is unnecessary for the publication of rules and procedures contemplated therein since the LEIDB, pursuant to subsections (2) and (3), above, will be exempt from the underlying duties to provide to individuals notification about, access to, and the ability to amend or correct the information pertaining to them in, this system of records. Furthermore, to the extent that subsection (e)(4)(I) is construed to require more detailed disclosure than the information accompanying the system notice for LEIDB, as published in today's FEDERAL REGISTER, exemption from it is also necessary to protect the confidentiality, privacy, and physical safety of sources of information, as well as the methods for acquiring it. Finally, greater specificity concerning the description of categories of sources of properly classified records could also compromise or otherwise cause damage to the national or homeland security.

(8) From subsection (e)(5) (Collection of Information) because many of the records contained in this system are derived from other domestic and foreign sources, it is not possible for DHS to vouch for those records' compliance with this provision; however, the DHS has implemented internal quality assurance procedures to ensure that data used in its screening processes is as complete, accurate, and current as possible. In addition, in the collection of information for law enforcement and counterterrorism purposes, it is impossible to determine in advance what information is accurate, relevant, timely, and complete. With the passage of time, seemingly irrelevant or untimely information may acquire new significance as further investigation brings new details to light. The restrictions imposed by (e)(5) would limit the ability of those agencies' trained investigators and intelligence analysts to exercise their judgment in conducting investigations and impede the development of intelligence necessary for effective law enforcement and counterterrorism efforts.

(9) From subsection (e)(8) (Notice on Individuals) because to require individual notice of disclosure of information due to compulsory legal process would pose an impossible administrative burden on DHS and other agencies and could alert the subjects of counterterrorism or law enforcement investigations to the fact of those investigations then not previously known.

(10) From subsection (f) (Agency Rules) because portions of this system are exempt from the access and amendment provisions of subsection (d). Access to, and amendment of, system records that are not exempt or for which exemption is waived may be obtained under procedures described in the related SORN or Subpart B of this Part.

(11) From subsection (g) to the extent that the system is exempt from other specific subsections of the Privacy Act relating to individuals' rights to access and amend their records contained in the system. Therefore DHS is not required to establish rules or procedures pursuant to which individuals may seek a civil remedy for the agency's: Refusal to amend a record; refusal to comply with a request for access to records; failure to maintain accurate, relevant timely and complete records; or failure to otherwise comply with an individual's right to access or amend records.

10. DHS–ICE–001, The Immigration and Customs Enforcement (ICE) Student and Exchange Visitor Information System (SEVIS) collects and maintains pertinent information on nonimmigrant students and exchange visitors and the schools and exchange visitor program sponsors that host them while in the United States. The system permits DHS to monitor compliance by these individuals with the terms of their admission into the United States. Pursuant to exemptions (j)(2), (k)(1), (k)(2) and (k)(5) of the Privacy Act, portions of this system are exempt from 5 U.S.C. 552a(c)(3); (d); (e)(1); (e)(4)(G), (H) and (I). Exemptions from the particular subsections are justified, on a case by case basis, to be determined at the time a request is made, for the following reasons:

(a) From subsection (c)(3) (Accounting for Disclosures) because release of the accounting of disclosures could alert the subject of an investigation, of an actual or potential criminal, civil, or regulatory violation to the existence of the investigation and reveal investigative interest on the part of DHS as well as the recipient agency. Disclosure of the accounting would therefore present a serious impediment to law enforcement efforts and/or efforts to preserve national security. Disclosure of the accounting would also permit the individual who is the subject of a record to impede the investigation and avoid detection or apprehension, which undermines the entire system.

(b) From subsection (d) (Access to Records) because access to the records contained in this system of records could inform the subject of an investigation, of an actual or potential criminal, civil, or regulatory violation to the existence of the investigation and reveal investigative interest on the part of DHS or another agency. Access to the records could permit the individual who is the subject of a record to impede the investigation and avoid detection or apprehension. Amendment of the records could interfere with ongoing investigations and law enforcement activities and impose an impossible administrative burden by requiring investigations to be continuously reinvestigated. In addition, permitting access and amendment to such information also could disclose security-sensitive information that could be detrimental to homeland security.

(c) From subsection (e)(1) (Relevancy and Necessity of Information) because in the course of investigations into potential violations of federal law, the accuracy of information obtained or introduced occasionally may be unclear or the information may not be strictly relevant or necessary to a specific investigation. In the interests of effective enforcement of federal laws, it is appropriate to retain all information that may aid in establishing patterns of unlawful activity.

(d) From subsections (e)(4)(G), (H) and (I) (Agency Requirements), and (f) (Agency Rules), because portions of this system are exempt from the access provisions of subsection (d).

11. The General Counsel Electronic Management System (GEMS) consists of records and information created or collected by attorneys for U.S. Immigration and Customs Enforcement, which will be used in the preparation and presentation of cases before a court or other adjudicative body. ICE attorneys work closely with ICE law enforcement personnel throughout the process of adjudicating immigration cases. GEMS allows ICE attorneys to store all the materials pertaining to immigration adjudications, including documents related to investigations, case notes and other hearing related information, and briefs and memoranda of law related to cases. Having this information in one system should not only facilitate the work of the ICE attorneys involved in the particular case, but also will provide a legal resource for other attorneys who are adjudicating similar cases. The system will also provide management capabilities for tracking time and effort expended in the preparation and presentation of cases. Pursuant to exemptions 5 U.S.C. 552a(j)(2) of the Privacy Act, portions of this system are exempt from 5 U.S.C. 552a(c)(3) and (4); (d); (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(5) and (e)(8); (f)(2) through (5); and (g). Pursuant to 5 U.S.C. 552a (k)(1) and (k)(2), this system is exempt from the following provisions of the Privacy Act, subject to the limitations set forth in those subsections: 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), and (f). Exemptions from these particular subsections are justified, on a case-by-case basis to be determined at the time a request is made, for the following reasons:

(a) From subsection (c)(3) (Accounting for Disclosures) because release of the accounting of disclosures could alert the subject of an investigation of an actual or potential criminal, civil, or regulatory violation, to the existence of the investigation, which in some cases may be classified, and reveal investigative interest on the part of DHS or ICE. Disclosure of the accounting would therefore present a serious impediment to law enforcement efforts and/or efforts to preserve national security. Disclosure of the accounting would also permit the individual who is the subject of a record to impede the investigation, tamper with witnesses or evidence, and avoid detection or apprehension, which would undermine the entire investigative process.

(b) From subsection (d) (Access to Records) because access to the records contained in this system of records could inform the subject of an investigation pertaining to an immigration matter, which in some cases may be classified, and prematurely reveal investigative interest on the part of DHS or another agency. Access to the records could permit the individual who is the subject of a record to impede the investigation, tamper with witnesses or evidence, and avoid detection or apprehension. Amendment of the records could interfere with ongoing investigations and law enforcement activities and would impose an impossible administrative burden by requiring investigations to be continuously reinvestigated. In addition, permitting access and amendment to such information could disclose security-sensitive information that could be detrimental to homeland security.

(c) From subsection (e)(1) (Relevancy and Necessity of Information) because in the course of investigations into potential violations of federal immigration law, the accuracy of information obtained or introduced occasionally may be unclear or the information may not be strictly relevant or necessary to a specific investigation. In the interests of effective law enforcement and for the protection of national security, it is appropriate to retain all information that may aid in establishing patterns of unlawful activity.

(d) From subsection (e)(2) (Collection of Information from Individuals) because requiring that information be collected from the subject of an investigation would alert the subject of the nature or existence of an investigation, which could cause interference with the investigation, a related inquiry or

other law enforcement activities, some of which may be classified.

(e) From subsection (e)(3) (Notice to Subjects) because providing such detailed information would impede law enforcement in that it could compromise the existence of a confidential investigation or reveal the identity of witnesses or confidential informants.

(f) From subsections (e)(4)(G) and (H) (Agency Requirements), (f) (Agency Rules), and (g) (Civil Remedies) because portions of this system are exempt from the individual access provisions of subsection (d).

(g) From subsection (e)(5) (Collection of Information) because in the collection of information for law enforcement purposes it is impossible to determine in advance what information is accurate, relevant, timely, and complete.

(h) From subsection (e)(8) (Notice on Individuals) because compliance would interfere with ICE's ability to obtain, serve, and issue subpoenas, warrants and other law enforcement mechanisms that may be filed under seal, and could result in disclosure of investigative techniques, procedures, and evidence.

(i) From subsection (g) to the extent that the system is exempt from other specific subsections of the Privacy Act.

12. DHS/CBP–005, Advanced Passenger Information System. A portion of the following system of records is exempt from 5 U.S.C. 552a(c)(3) and (4); (d)(1), (2), (3), and (4); (e)(1), (2), (3), (4)(G) through (I), (5), and (8); (f), and (g); however, these exemptions apply only to the extent that information in this system records is recompiled or is created from information contained in other systems of records subject to such exemptions pursuant to 5 U.S.C. 552a(j)(2), and (k)(2). Further, no exemption shall be asserted with respect to information submitted by and collected from the individual or the individual's representative in the course of any redress process associated with this system of records. After conferring with the appropriate component or agency, DHS may waive applicable exemptions in appropriate circumstances and where it would not appear to interfere with or adversely affect the law enforcement or national security purposes of the systems from which the information is recompiled or in which it is contained. Exemptions from the above particular subsections are justified, on a case-by-case basis to be determined at the time a request is made, when information in this system records is recompiled or is created from information contained in other systems of records subject to exemptions for the following reasons:

(a) From subsection (c)(3) (Accounting for Disclosure) because making available to a record subject the accounting of disclosures from records concerning him or her would specifically reveal any investigative interest in the individual. Revealing this information could reasonably be expected to compromise ongoing efforts to investigate a known or suspected terrorist by notifying the record subject that he or she is under investigation. This information could also permit the record subject to take measures to impede the investigation, *e.g.*, destroy evidence, intimidate potential witnesses, or flee the area to avoid or impede the investigation.

(b) From subsection (c)(4) (Accounting for Disclosure, notice of dispute) because portions of this system are exempt from the access and amendment provisions of subsection (d).

(c) From subsections (d)(1), (2), (3), and (4) (Access to Records) because these provisions concern individual access to and amendment of certain records contained in this system, including law enforcement counterterrorism, investigatory, and intelligence records. Compliance with these provisions could alert the subject of an investigation of the fact and nature of the investigation, and/or the investigative interest of intelligence or law enforcement agencies; compromise sensitive information related to national security; interfere with the overall law enforcement process by leading to the destruction of evidence, improper influencing of witnesses, fabrication of testimony, and/or flight of the subject; could identify a confidential source or disclose information which would constitute an unwarranted invasion of another's personal privacy; reveal a sensitive investigative or intelligence technique; or constitute a potential danger to the health or safety of law enforcement personnel, confidential informants, and witnesses. Amendment of these records would interfere with ongoing counterterrorism, law enforcement, or intelligence investigations and analysis activities and impose an impossible administrative burden by requiring investigations, analyses, and reports to be continuously reinvestigated and revised.

(d) From subsection (e)(1) (Relevancy and Necessity of Information) because it is not always possible for DHS or other agencies to know in advance what information is relevant and necessary for it to complete an identity comparison between the individual seeking redress and a known or suspected terrorist. Also, because DHS and other agencies may not always know what information about an encounter with a known or suspected terrorist will be relevant to law enforcement for the purpose of conducting an operational response.

(e) From subsection (e)(2) (Collection of Information from Individuals) because application of this provision could present a serious impediment to counterterrorism, law enforcement, or intelligence efforts in that it would put the subject of an investigation, study, or analysis on notice of that fact, thereby permitting the subject to engage in conduct designed to frustrate or impede that

activity. The nature of counterterrorism, law enforcement, or intelligence investigations is such that vital information about an individual frequently can be obtained only from other persons who are familiar with such individual and his/her activities. In such investigations it is not feasible to rely upon information furnished by the individual concerning his own activities.

(f) From subsection (e)(3) (Notice to Subjects), to the extent that this subsection is interpreted to require DHS to provide notice to an individual if DHS or another agency receives or collects information about that individual during an investigation or from a third party. Should the subsection be so interpreted, exemption from this provision is necessary to avoid impeding counterterrorism, law enforcement, or intelligence efforts by putting the subject of an investigation, study, or analysis on notice of that fact, thereby permitting the subject to engage in conduct intended to frustrate or impede that activity.

(g) From subsections (e)(4)(G), (H) and (I) (Agency Requirements) because portions of this system are exempt from the access and amendment provisions of subsection (d).

(h) From subsection (e)(5) (Collection of Information) because many of the records in this system coming from other system of records are derived from other domestic and foreign agency record systems and therefore it is not possible for DHS to vouch for their compliance with this provision; however, the DHS has implemented internal quality assurance procedures to ensure that data used in the redress process is as thorough, accurate, and current as possible. In addition, in the collection of information for law enforcement, counterterrorism, and intelligence purposes, it is impossible to determine in advance what information is accurate, relevant, timely, and complete. With the passage of time, seemingly irrelevant or untimely information may acquire new significance as further investigation brings new details to light. The restrictions imposed by (e)(5) would limit the ability of those agencies' trained investigators and intelligence analysts to exercise their judgment in conducting investigations and impede the development of intelligence necessary for effective law enforcement and counterterrorism efforts. The DHS has, however, implemented internal quality assurance procedures to ensure that the data used in the redress process is as thorough, accurate, and current as possible.

(i) From subsection (e)(8) (Notice on Individuals) because to require individual notice of disclosure of information due to compulsory legal process would pose an impossible administrative burden on DHS and other agencies and could alert the subjects of counterterrorism, law enforcement, or intelligence investigations to the fact of those investigations when not previously known.

(j) From subsection (f) (Agency Rules) because portions of this system are exempt from the access and amendment provisions of subsection (d).

(k) From subsection (g) (Civil Remedies) to the extent that the system is exempt from other specific subsections of the Privacy Act.

13. The Department of Homeland Security General Training Records system of records consists of electronic and paper records and will be used by DHS and its components. The Department of Homeland Security General Training Records system of records consists of electronic and paper records and will be used by DHS and its components and offices to maintain records about individual training, including enrollment and participation information, information pertaining to class schedules, programs, and instructors, training trends and needs, testing and examination materials, and assessments of training efficacy. The data will be collected by employee name or other unique identifier. The collection and maintenance of this information will assist DHS in meeting its obligation to train its personnel and contractors in order to ensure that the agency mission can be successfully accomplished. Pursuant to exemptions 5 U.S.C. 552a(k)(6) of the Privacy Act, portions of this system are exempt from 5 U.S.C. 552a(d) to the extent that records in this system relate to testing or examination materials used solely to determine individual qualifications for appointment in the Federal service. Access to or amendment of this information by the data subject would compromise the objectivity and fairness of the testing and examination process.

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PART 7—CLASSIFIED NATIONAL SECURITY INFORMATION

Sec.

Subpart A—Administration